

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TARA OSBORNE,	:	Case No.: C-1-01-896
	:	
Plaintiff,	:	Judge S. Arthur Spiegel
	:	
vs.	:	
	:	MOTION TO CONTINUE
NATIONAL UNION FIRE	:	PRETRIAL
INSURANCE COMPANY, et al.,	:	
	:	
Defendants.	:	
	:	

Comes now the Defendant, Ohio Insurance Guaranty Association ("Guaranty Association"), by and through counsel, and herewith moves the Court for an Order continuing the January 13, 2005 Pretrial Conference for thirty (30) days, for the reasons set forth herein below.

Respectfully submitted,

s/Joseph W. Gelwicks
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Association
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MEMORANDUM

As the discovery drew to a close in this personal injury action, it was learned for the first time that Plaintiff may require an additional surgery, involving the fusion of her ankle. Obviously, whether the surgery is required will have a significant impact on the value of the case. The report from the defense medical exam will not be available until the end of January. Thus, the defense cannot properly evaluate the case before then.

Additionally, the Guaranty Association is entitled to set-offs from all third party sources. One of the sources is the short-term disability benefits the Plaintiff received. A subpoena was issued to the Plaintiff's former employer, Reliance Insurance Company, to obtain the short-term disability benefits information. The responding company indicated they had no such records. Further checking with other carriers determined that, in fact, Reliance does have the short-term disability payment information. Reliance was 100% self-insured for short-term disability, so only they have this information. A second subpoena has been issued but as yet we have not received the documentation. This is another piece of the puzzle that is required before a final evaluation is possible.

The defendant expects that mid February these final bits of information will be available, a proper evaluation reached and settlement authority received from the Guaranty Association. Therefore, the Pretrial would be far more productive if it were to occur mid February or beyond at the convenience of the Court.

Based on the foregoing, Defendant, Ohio Insurance Guaranty Association hereby moves the Court for an Order Continuing the Pretrial Conference.

Respectfully submitted,

s/Joseph W. Gelwicks

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CERTIFICATE OF SERVICE

I hereby certify that on 7th day of January, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record and I hereby certify that I have mailed by U.S. Postal Service the documents to counsel of record to all non CM/ECF participants.

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s/Joseph W. Gelwicks

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